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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

DENNIS O. WILLIAMS,

Plaintiff,

VS.

FEDERAL BUREAU OF  
INVESTIGATION,

Defendant.

## COMPLAINT

Case No.: 2:13-cv-00056-DN

Judge David Nuffer

By way of *Complaint*, under the *Freedom of Information Act*, 5 U.S.C. §§ 552 *et. seq.* (hereinafter “*FOIA*”), Plaintiff Dennis O. Williams alleges and complains against Defendant Federal Bureau of Investigation (“FBI”) as follows:

## PARTIES

1. Plaintiff is a citizen of the United States and a resident of Salt Lake

County, Utah.

2. The Federal Bureau of Investigation or FBI is an “agency” of the Executive Branch of the United States of America within the meaning of 5 *U.S.C.* §§ 551(1) and 552(f)(1). As an agency of the Executive Branch, the Federal Bureau of Investigation is subject to *FOIA* and a proper party within the meaning of 5 *U.S.C.* §§ 702 and 703.

### **JURISDICTION AND VENUE**

3. This Court’s jurisdiction over this matter arises under 5 *U.S.C.* § 552(a)(4)(B); the *First* and *Fifth Amendments* to the *Constitution of the United States*; the *Administrative Procedure Act*, 5 *U.S.C.* §§ 701 *et seq.*; 28 *U.S.C.* § 1331; and the equitable powers inherent in the Courts of the United States of America.

4. Venue lies within this Court pursuant to 5 *U.S.C.* § 552(a)(4)(B) and 28 *U.S.C.* § 1391(e).

### **GENERAL ALLEGATIONS AS TO FBI DEFENDANTS**

5. On July 19, 2004, Plaintiff filed and/or served a *FOIA Request* with and/or upon the FBI asking it to produce a 1993 communication (hereinafter “*Freeh Memorandum*”) from then FBI Director Louis Freeh to all employees

advising them that he had been contacted by the Comptroller General regarding several investigations focusing upon the FBI. In that communication, Director Freeh advised all employees that he was “drawing a bright line in the sand” and that if anyone obstructed an investigation he or she would be fired. A copy of that *FOIA Request* is attached hereto as Exhibit 1 and incorporated by reference.

6. The FBI Defendants was charged under 28 *C.F.R.* § 16.4 with responding to Plaintiff’s *FOIA Request*. Pursuant to 28 *C.F.R.* § 16.6 and 5 *U.S.C.* § 552(a)(6), the FBI was required to either comply with or deny Plaintiff’s *FOIA Request* within 20 days of receipt.

7. By letter dated November 5, 2012, the FBI acknowledged receipt of Plaintiff’s October 30 2012, *FOIA Request*, which had been assigned *FOIPA Request Number* 1202188-000 by the FBI. A copy of that letter is attached hereto as Exhibit 2 and incorporated by reference.

8. The FBI, however, did not respond to Plaintiff’s *FOIA Request* as required by 28 *C.F.R.* § 16.6 and/or 5 *U.S.C.* § 552(a)(6). The FBI’s response to Plaintiff’s *FOIA Request* was not in accordance with 5 *U.S.C.* § 552(a)(6) in that it did not inform Plaintiff of the name, title position of the person withholding the requested *Freeh Memorandum*; the reason(s) for withholding the *Freeh*

*Memorandum*, including any *FOIA* exemption; an estimate of the number of pages being withheld; and a statement that the FBI's withholding of the *Freeh Memorandum* could be appealed. Moreover, the FBI's response to Plaintiff's *FOIA Request* was also not in compliance with the requirements of 28 *C.F.R.* § 16.6 and 5 *U.S.C.* § 552(a)(6)(A) in that the FBI failed to make a determination as to whether it would comply with or deny Plaintiff's *FOIA Request* for the *Freeh Memorandum*.

9. Due to the FBI not having complied with the requirements of 28 *C.F.R.* § 16.6 and 5 *U.S.C.* § 552(a)(6)(A) in responding to the subject *FOIA Request*, pursuant to 5 *U.S.C.* §§ 552(a)(6)(A) and (C), Plaintiff has constructively exhausted his administrative remedies.

**CAUSE OF ACTION AS TO THE FBI**  
**(Refusal to Produce Documents)**

10. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 9 above.

11. Plaintiff has a statutory right to the *Freeh Memorandum* requested in his *FOIA Request* to the FBI.

12. The FBI has possession and control of the *Freeh Memorandum*

requested by Plaintiff.

13. Pursuant to *FOIA*, the FBI has a statutory duty to produce the *Freeh Memorandum* to Plaintiff but has breached and continues to breach that duty.

14. The FBI has no legal basis to withhold the *Freeh Memorandum* requested by Plaintiff but it has unlawfully denied and continues to unlawfully deny Plaintiff access to the *Freeh Memorandum*..

15. As a direct and proximate result of such denial, Plaintiff has suffered and continues to suffer grave and irreparable injury.

16. Plaintiff is entitled to seek judicial review pursuant to 5 *U.S.C.* § 552(a)(4)(B). Plaintiff is also clearly entitled to judicial relief in this Court as set forth in the prayer to this *Complaint*.

### **PRAYER**

Wherefore, Plaintiff respectfully requests this Court for judgment against the FBI as follows:

1. For an expedited proceeding;
2. For an *Order* permanently enjoining the FBI from withholding the *Freeh Memorandum* which Plaintiff has requested under *FOIA* and further requiring the FBI to immediately produce the *Freeh Memorandum* to Plaintiff.

3. For an *Order* awarding Plaintiff his costs, disbursements and reasonable attorney's fees pursuant to 5 *U.S.C.* § 552(a)(4)(E); and

4. For an *Order* awarding Plaintiff such other and further relief as may be equitable, just and proper under the circumstances.

DATED this 23<sup>rd</sup> day of January, 2013.

/s/ jesse c. trentadue  
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